

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DAVID ABARA,

Petitioner,

vs.

JACK PALMER, *et al.*,

Respondents.

3:10-cv-00623-RCJ-VPC

ORDER

This habeas matter under 28 U.S.C. § 2254 comes before the Court on respondents' motion (#27) to strike the reply that petitioner filed to respondents' reply on respondents' motion to dismiss.

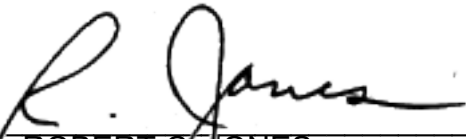
A party may not file a reply to a reply, or surreply, on a motion without leave of court, which is not granted routinely for such filings. In his opposition to the motion to strike, petitioner makes a conclusory argument that respondents' reply contained new allegations not contained in the motion to dismiss that required a response. Review of petitioner's surreply instead reflects, however, that petitioner addressed his surreply argument to assertions made in the original motion to dismiss.¹ The surreply merely sought to get the last word in and either expand upon or rehash petitioner's arguments opposing the motion to dismiss, including an argument as to an alleged *Brady* violation that petitioner previously had argued in his opposition to the motion. The Court additionally notes that when the surreply

¹ E.g., #26, at 3, line 1: "In the Respondent's [sic] Motion to Dismiss (pg. 9 Footnote 8), the respondents state"

1 was mailed for filing on or about February 2, 2012, petitioner necessarily would have been
2 responding only to the motion to dismiss and reply.

3 IT THEREFORE IS ORDERED that respondents' motion (#27) to strike is GRANTED
4 and that petitioner's response (#26) to respondents' reply is STRICKEN. The Court will
5 address respondents' pending motion to dismiss as promptly as its habeas docket allows.

6 DATED: September 30, 2012.

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10 ROBERT C. JONES
11 Chief United States District Judge
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